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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/049,717 | 03/18/2002 | Conny Svahn | 66302-031-7 | 9716 |
| 25269 | 7590 | 08/03/2004 | EXAMINER | |
| DYKEMA GOSSETT PLLC FRANKLIN SQUARE, THIRD FLOOR WEST 1300 I STREET, NW WASHINGTON, DC 20005 | | | LIN, KUANG Y | |
| | | ART UNIT | PAPER NUMBER | |
| | | | 1725 | |

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/049,717 | SVAHN ET AL. |
| | Examiner Kuang Y. Lin | Art Unit 1725 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 July 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2,5,6,8-12,20,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2,5,6,8-12,20,26 and 27 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 2, 5-6, 8-12, 20 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art as set forth in page 2 of the specification as well as figure 1 and further in view of JP 9-57,401.

Applicant's admitted prior art substantially shows the invention as claimed except that the coil is not provided in the yoke. However, JP '401 shows to provide the coil in the yoke 6c such that to shorten the time for maintenance, such as change of a coil. It would have been obvious to provide the coil of the admitted prior art in the yoke in view of JP '401 to facilitate the maintenance of the EM brake. With respect to claim 12, since JP '57,401 provide bolts 11 for mounting the yoke 6c to magnetic poles 6a, 6b (which are the same as yoke 38, 39 of instant apparatus),

yoke 6c can be easily removed and thus enable access of parts of the device being situated under the EM brake and which may need to be accessed for exchange and maintenance. The removably mounted of yoke 6c in JP '401 serves the same purpose as the claimed structure of claim 12. Thus, the use of pivoted portions in lieu of bolts in the EM brake presents no novel or unexpected result and solves no stated problem and would have been obvious to those of ordinary skill in the continuous casting art. See *In re Kuhle*, 188, USPQ 7. With respect to claim 26, two yoke parts ((38, 39) or (40, 41) in figure 2 of the instant drawing) are in L-shape and form a cradle. The drawing in the admitted prior art (figure 1 of the instant drawing) as well as in JP '401 also show the same structure. With respect to claim 27, the elements 14, 15 in the admitted prior art (figure 1 of the instant drawing) and 6a, 6b of JP 401 are considered to be "ledges" which define, along with element 9 in the admitted prior art or the element 6c in JP '401, define a cradle.

4. Applicant's arguments filed Jan. 07, 2004 have been fully considered but they are not persuasive.

Applicant's main argument is that JP '401 is directed to a vertical brake rather than a horizontal brake of the instant invention. However, the admitted prior art, which is a primary reference, shows a horizontal brake. Since JP '401 shows the concept of providing the coil in the yoke (6c) which disposed between the magnetic poles (6a, 6b which are the same as the first and second parts as claimed) such that to facilitate the maintenance of the EM brake, it would have been obvious to adapt the very concept of

JP '401 in making the EM brake of the admitted prior art in view of the advantage. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

5. Applicant's arguments filed July 21, 2004 have been fully considered but they are not persuasive.

- a. As shown in figure 1, the admitted prior art cores (3,4,5,6) extend along substantially the entire width of long sides of the mold except for the center portion. Such the claim as amended does not define over the admitted prior art apparatus.
- b. In page 1, last paragraph through page 2 second paragraph of the remarks applicant stated that neither the admitted prior art shown in figure 1 of the instant application nor the device shown in JP '401 may be used without special adaption to moulds having different widths. Applicant further stated that although the in JP '401 the yoke with coil may be detached from the magnetic cores, this does not result in any possibility to adapt the brake to molds with varying width. However, it is noted that as the coil of admitted prior art is placed in the yoke, instead of in the core parts (14,15,16,17) in view of JP '401, the modified device of the admitted prior art will have the same structure as that of instant application. If the claimed device may be used without special adaption

to mold having different widths, there is no reason why the modified device of the admitted prior art may not be used the same way as applicant's device.

6. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuang Y. Lin whose telephone number is 571-272-1179. The examiner can normally be reached on Monday-Friday, 10:00-6:30,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas X Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kuang Y. Lin
Primary Examiner
Art Unit 1725

7-30-04